IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.982 OF 2004

Ganeshrao Pandurang Bhoir ... Appellant

V/s.

Prakash J. Sonmale & Ors. ... Respondents

Mr.P.S. Dani for Appellant
Mr.R.A. Thorat for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 15, 2004**

P.C.:

. The trial Court by the impugned order has directed that the possession of the suit premises be handed over to the plaintiffs and the Notice of Motion has been made absolute in terms of prayer clauses (a) and (b). On a perusal of the order of the trial Court, I find that it has cursorily disposed off the Notice of Motion. Although four sets of documents on which the parties relied on, were on record as observed by the trial Court, it has not considered these documents. The order does not reflect any application of mind to these documents or to the affidavits which have been filed by Defendant Nos.1 and 4. In my view, it would, therefore, be appropriate to remand the matter to the trial Court for a fresh decision on the Notice of Motion after hearing the parties.

2. The impugned order is set aside. Notice of Motion remanded for a fresh hearing. The parties will maintain status quo during the pendency of the Notice of Motion.

3. Appeal from Order stands disposed of accordingly.

4. In view of the Appeal from Order being disposed of, nothing survives in Civil Application No.1358 of 2004 and the same is disposed of accordingly.

5. Parties be provided an authenticated copy of this order.